

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(410) 332-8862
WASHINGTON AREA (202) 470-7402

10480 LITTLE PATENTWAY PARKWAY
COLUMBIA, MARYLAND 21044-3508
(410) 740-8500

FACSIMILE
(410) 332-8862

FILE NUMBER

WRITER'S DIRECT DIAL NUMBER
(410) 332-8816

February 1, 1994

Honorable Lawrence E. Schmidt
Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. V-94-189-SPH (C93-2809)
11837 Bradshaw Road
Property Owner: Tollgate Shell Enterprises, Inc.

Dear Commissioner Schmidt:

We have been contacted by the property owner regarding the referenced matter which was heard on December 29, 1993.

Please forward a copy of the Order in this matter to me.

Very truly yours,

Robert W. Cannon
Robert W. Cannon

0410p/0081/ksm

cc: Mr. Fred G. Schiminger
Howard Alderman, Jr., Esquire

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOMPER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOMPER 410-296-2801

ELLIS LEVIN (893-1960)

HOWARD L. ALDERMAN, JR.

February 8, 1994

Lawrence E. Schmidt, Esquire
Zoning Commissioner for Baltimore County
Court House
Towson, MD 21204

RE: Case No. 94-189-SPH / Legal Owner: Tollgate Shell Enterprises
Property: 11837 Bradshaw Road, Kingsville

Dear Commissioner Schmidt:

I have read with interest your decision dated February 2, 1993 in the above-referenced matter. The relief ordered is consistent with your verbal indications at the conclusion of the hearing held on this matter.

In the interest of clarity, I would respectfully suggest a couple of minor modifications to your decision as follows:

- At the top of page 2, I hope that I stated for the record that I had filed a complaint and that I was representing my self. I believe that I also indicated that while I did not, technically, represent the members of the community present, I would call them as witnesses and examine them if the same had been necessary.
- The other minor modifications suggested relate to the period of time that an automobile service station must remain in continuous operation. I believe that where your decision speaks to "a period of 12 consecutive years" it should read "a period of 12 consecutive months". See page 1, 9 lines from the bottom; page 3, 7th line of the relief paragraph.

I would ask that you consider these suggested modifications in the spirit in which they are offered and then take the steps that you deem appropriate. Thank you for your consideration of this request.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA/gk

cc: Robert W. Cannon, Esquire (on behalf of Tollgate Shell Enterprises, Inc.)

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(410) 332-8862
WASHINGTON AREA (202) 470-7402

FACSIMILE TRANSMITTAL

To: Lawrence Schmidt From: Robert Cannon

Company: Direct No.: (410) 332-8862

City: State: Date: 2/14/94

Fax No.: () 332-8862 Time:

Phone No.: () 332-8862 Hard Copy will follow by mail: Yes No

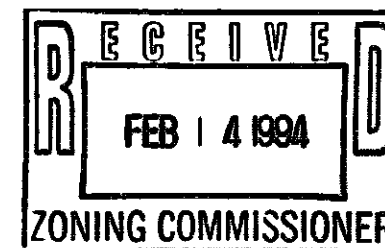
No. of Pages: 2 (including this page)

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE (410) 332-8640 IMMEDIATELY.

Client/Matter No.: 032011 Return to Station No.: 111

Confirmed by: Time:

Message:



CONFIDENTIALITY NOTICE

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WEINBERG AND GREEN

(410) 332-8862

February 11, 1994

VIA FACSIMILE

Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. V-94-189-SPH (C93-2809)
11837 Bradshaw Road
Property Owner: Tollgate Shell Enterprises, Inc.

Dear Commissioner Schmidt:

Thank you for forwarding me a copy of your decision regarding the above-referenced matter. I have received your acknowledgment receipt of a copy of the decision dated February 2, 1994 from Howard L. Alderman, Jr. Esquire, on my behalf. I am in receipt of your decision.

On receipt of the property, which was sold to Tollgate Shell Enterprises, Inc., we immediately began the process of preparing for additional testimony. We have been instructed to prepare this testimony without the benefit of legal counsel. In order to ensure that the property is properly represented, we respectfully request that you consider the suggested modifications to your decision.

Robert W. Cannon
Robert W. Cannon

cc: Mr. Fred G. Schiminger

cc: Howard L. Alderman, Jr., Esquire



BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
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9TH FLOOR
BALTIMORE, MARYLAND 21201
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LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOMPER 410-296-2801

ELLIS LEVIN (893-1960)

HOWARD L. ALDERMAN, JR.

February 14, 1994

Lawrence E. Schmidt, Esquire
Zoning Commissioner for Baltimore County
Court House
Towson, MD 21204

RE: Case No. 94-189-SPH / Legal Owner: Tollgate Shell Enterprises
Property: 11837 Bradshaw Road, Kingsville

Dear Commissioner Schmidt:

I am in receipt of Bob Cannon's letter of February 10, 1994 regarding the above-referenced matter. Mr. Cannon, on behalf of his client Tollgate Shell Enterprises, Inc., has requested that the proceedings in this case "be reopened for additional testimony."

I must oppose this request. Although Mr. Schiminger appeared without legal counsel, he testified, I believe, honestly and accurately regarding the issues before you in this case. Any relevant "additional testimony" that would be offered with the benefit of legal counsel would have to contradict directly that testimony given previously by Mr. Schiminger. The absence of legal counsel is not a sufficient basis to reopen these proceedings in that Mr. Schiminger's direct and uncontradicted testimony in response to your questions regarding the standards of the Baltimore County Zoning Regulations was given without hesitation or reservation and was dispositive.

If Messrs. Schiminger or Cannon believe that your decision, based on the evidence before you, was incorrect the appeal available is a *de novo* proceeding. Any request for additional testimony should be viewed as a further delay technique during which the deplorable condition of the subject property will not be remedied.

For all of the above reasons I respectfully request that you deny Mr. Cannon's request.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA/gk

cc: Robert W. Cannon, Esquire

WEINBERG AND GREEN

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COLUMBIA, MARYLAND 21044-3508
(410) 740-8500

FACSIMILE
(410) 332-8862

FILE NUMBER

WRITER'S DIRECT DIAL NUMBER

March 3, 1994

NOTICE OF APPEAL

TO: Honorable Arnold Jablon, Esquire
Director
Zoning Administration and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Property: 11837 Bradshaw Road * ZONING COMMISSIONER
Legal Owner: Tollgate Shell Enterprises, Inc. * OF BALTIMORE COUNTY
11th Election District *
6th Councilmanic District * Case Nos. V-94-189-SPH
Gary Freund, Zoning Inspector *
Petitioner *

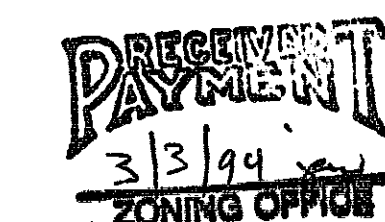
On behalf of Tollgate Enterprises, Inc., f/k/a Tollgate Shell Enterprises, Inc. and Frederick G. Schiminger and Josephine Schiminger, Directors and Trustees, we hereby appeal the Order of the Zoning Commissioner dated February 2, 1994, a copy of which is attached hereto.

Our check in the amount of \$210.00 is enclosed. The address of the appellants for purposes of this appeal is:

c/o Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

Very truly yours,

Robert W. Cannon
Robert W. Cannon



04611(7338)/0081/ksm

cc: Honorable William C. Hackett
Howard L. Alderman, Jr., Esquire

NOTICE to the Director of Zoning Administration & Development Management

Special Hearing # V-94-189-SPH

Date

I hereby acknowledge receipt of the attached Petition for Special Hearing

Date 11-11-93 Signature *Fred Schiminger*

Address 1107 Milchling Drive

Bel Air MD.

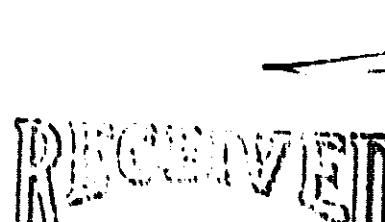
Phone # 410-638-0135

W-410-771-2077

RETURN TO:

Director of Zoning Administration and Development Management
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

Sir
I will not be in town
on the scheduled date of Dec 2
1993 2 PM. Any date that
you could Reschedule after Dec 2
would work for me



Frank Schiminger
Fred Schiminger

Charles L. Weber
6628 Blackhead Road
Kingsville, Maryland 21087
410-592-2103

November 27, 1993

Arnold Jablon
Office Of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. V-94-189-SPH
11837 Bradshaw Road
11th Election District

Dear Mr. Jablon:

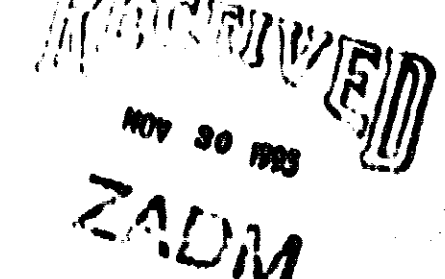
I have received the notice of the hearing date for the above property. Unfortunately I will be out of town during this period, but I am very much interested in having my input included in the testimony. The above mentioned property is in an abominable state of decay. The paving is broken up, there are old gasoline pumps that are pulled apart, and overgrown weeds. Wild trees have begun to grow and more are starting to grow. Tagged and untaged cars are parked there constantly for extended periods of time. Tow trucks from GM Automotive are left on the property overnight.

I believe if this is left to continue the Belair Road corridor will end up looking like Liberty Road and Reisterstown Road, thereby lowering the property value.

I hope this information will be helpful in cleaning up this property.

Sincerely,

Charles L. Weber
Charles L. Weber



Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

November 4, 1993

Mr. Charles Weber
11711 Kingtop Drive
Kingsville, Maryland 21087

Re: Case No. V-94-189-SPH
11837 Bradshaw Road
11th Election District

Dear Mr. Weber:

Enclosed is a copy of the special hearing petition issued to the property owner for the referenced case.

Baltimore County has established a time, date, and location for this hearing that will be addressed either before the zoning commissioner or deputy zoning commissioner.

The possibility does exist that this case may be continued due to the failure of the property owner (defendant) to acknowledge service or the request of a continuance by their attorney.

The Office of Zoning Administration and Development Management will make every effort to update you of all subsequent developments relative to this matter.

Sincerely,

Arnold Jablon
Director

AJ/hek
Enclosure

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

February 25, 1994

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

Howard L. Alderman, Jr., Esquire
Levin and Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

Robert W. Cannon, Esquire
100 South Charles Street
Baltimore, Maryland 21201-2773

RE: Case No. 94-189-SPH - Property: 11837 Bradshaw Rd., Kingsville
Legal Owner: Tollgate Shell Enterprises

Gentlemen:

This is to acknowledge Mr. Cannon's letter dated February 10, 1994 and Mr. Alderman's letters of February 8 and February 14, 1994.

As to Mr. Alderman's initial letter, my recollection is that his participation at the hearing was as is stated in the letter. I do recall Mr. Alderman indicating that he was representing himself at the hearing, however, he assisted in the conduct of the other Protestants' testimony in view of the fact that they were unrepresented. Also, the Petition does indeed indicate that the question related to the use of the property for a period of 12 consecutive months. Thus, my opinion and order should be corrected by striking the word "years" and inserting the word "months" on page 1, line 9 and page 3, line 7. I will attach a copy of this letter to my Order making that technical change.

As to Mr. Cannon's request, I concur with Mr. Alderman as to the merits of this case. Mr. Schiminger testified honestly and openly about the issues raised in this case. I have summarized his testimony on page 2 of my opinion. I do not anticipate any testimony, other than perjured remarks, which could affect my findings in this case as to the merits. The only issue which might be proffered for consideration may be the restrictions which I have incorporated in my Order.

Under the circumstances, I am inclined to deny Mr. Cannon's request unless the proffered additional testimony would relate to these restrictions. Might I suggest that Mr. Cannon arrange for a conference call between myself and counsel to discuss this issue. I understand that the appeal time is running on this case and my ruling is, therefore, timely needed.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

APPEAL

Petition for Special Hearing
11837 Bradshaw Road

Legal Owner - Tollgate Shell Enterprises
11th Election District - 6th Councilmanic District
Gary Freund, Zoning Inspector-PETITIONER
Case No. V-94-189-SPH

Petition(s) for Special Hearing

Petitioner(s) and Protestant(s) Sign-In Sheets

Notice of Special Hearing Acknowledgment

Notice of Reassignment

Letter from Robert W. Cannon dated February 10, 1994

Letter from Howard L. Alderman, Jr. dated February 8, 1994

Letter from Howard L. Alderman, Jr. dated February 14, 1994

Letter from Lawrence E. Schmidt dated February 25, 1994

Zoning Commissioner's Order dated February 2, 1994 (Denied)

Notice of Appeal received on March 3, 1994 from Robert W. Cannon, Esquire

c: Mr. Gary Freund, Zoning Inspector, Office of Zoning Administration and Development Management, Enforcement Section, 111 W. Chesapeake Avenue, Towson, MD 21204

Mr. Frederick G. Schiminger, 1107 Milohling Drive, Belair, MD 21015

Howard L. Alderman, Jr., Esquire, Levin and Gann, 305 W. Chesapeake Avenue, Suite 113, Towson, MD 21204

Mr. Charles L. Weber, 8638 Blackhead Road, Kingsville, MD 21087

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, MD 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Koller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Stephen Glass
Arnold Jablon, Director of ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 13, 1994

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. V94-189-SPH

TOLLGATE SHELL ENTERPRISES, INC. -Legal Owner; Gary Freund, Zoning Inspector - Petitioner (Petition filed by ZADM) (11837 Bradshaw Road) 11th Election District 6th Councilmanic District

SPH - To determine whether the existing auto. srvc station on site has been in continuous operation for 12 consecutive months; and whether maintenance of site has been in clean/orderly condition.

2/02/94 -D.Z.C.'s Order determining that existing auto. srvc station has not been in continuous operation for required period; maintenance of same has not been kept in clean/orderly condition; & removal of all existing structures within 90 days of Order.

ASSIGNED FOR:

WEDNESDAY, JULY 6, 1994 at 10:00 a.m.

cc: Robert W. Cannon, Esquire Counsel for Legal Owner /Appellant
Tollgate Shell Enterprises Legal Owner /Appellant
Howard L. Alderman, Jr., Esquire
Mr. Frederick G. Schiminger
Mr. Charles L. Weber
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
James Thompson /ZADM
Gary Freund /Zoning Inspector
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.

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on Recycled Paper

4/13/94 - Following parties notified of hearing set for Wednesday, July 6, 1994 at 10:00 a.m.:

Robert W. Cannon, Esquire
Tollgate Shell Enterprises
Howard L. Alderman, Jr., Esquire
Mr. Frederick G. Schiminger
Mr. Charles L. Weber
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
James Thompson /ZADM
Gary Freund /Zoning Inspector
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

4/22/94 - Joint Petition filed by Robert Cannon, Esquire on behalf of Tollgate Enterprises and the Schimingers, and Baltimore Co., MD by Stanley Schapiro, County Attorney to petition the CBA to adopt the Settlement Agreement and License as the Order of the Board by adopting a Consent Order.

Case No. V94-189-SPH

Tollgate Enterprises, Inc.

4/21/94 -Joint Petition filed by R. Cannon, Esquire, on behalf of Tollgate Enterprises, Inc., Frederick G. Schiminger and Joseph Schiminger, Appellants, and by Stanley J. Schapiro, Baltimore County Attorney, on behalf of Baltimore County, Maryland, for adoption by Board of Settlement Agreement of parties; proposed Consent Order also filed; all rights of appeal to be waived.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 4, 1994

Mr. Gary Freund
Zoning Inspector
Office of Zoning Administration and
Development Management, Enforcement Section
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Special Hearing
11837 Bradshaw Road
Legal Owner: Tollgate Shell Enterprises, Inc.
11th Election District
6th Councilmanic District
Gary Freund, Zoning Inspector-Petitioner
Case No. V-94-189-SPH

Dear Mr. Freund:

Please be advised that an appeal of the above-referenced case was filed in this office on March 3, 1994 by Robert W. Cannon, Esquire on behalf of Tollgate Enterprises, Inc. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

Arnold Jablon
Director

AJ:jaw

c: Mr. Frederick G. Schiminger
Howard L. Alderman, Jr., Esquire
Mr. Charles Weber
People's Counsel



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 6, 1994

Robert W. Cannon, Esquire
WEINBERG AND GREEN
100 South Charles Street
Baltimore, MD 21201-2773

RE: Case No. V 94 189 SPH
TOLLGATE ENTERPRISES, INC;

Dear Mr. Cannon:

As no further appeals have been taken regarding the subject matter, we have closed the file and returned same to the Office of Zoning Administration and Development Management, along with any exhibits entered in this matter. The Zoning Office maintains the permanent file.

Anyone interested in either the file or the exhibits is advised to contact the Zoning Director's Office at 887-3353 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in this file have been notified.

Sincerely,

Charlotte E. Radcliffe
Legal Secretary

cc: Tollgate Shell Enterprises
Mr. Frederick G. Schiminger
Howard L. Alderman, Jr., Esquire
Mr. Charles L. Weber
People's Counsel for Baltimore County

Printed with Soybean Ink
on Recycled Paper

IN RE: 11837 Bradshaw Road
Kingsville, Maryland
11th Election District
Tollgate Shell Enterprises, Inc.
Legal Owner

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
CASE NO. V-94-189-SPH
(C93-2809)

REQUEST FOR SUBPOENA DUCES TECUM

Please issue a subpoena ~~duces tecum~~ for the following named witness and command him to appear at the hearing on the above-referenced matter scheduled before the Zoning Commissioner for Baltimore County on Wednesday, December 29, 1993 at 9:00 a.m., in Room 118 of the Old Courthouse, Towson, Maryland, 21204

Gary Freund, Zoning Inspector
Office of Zoning Administration and
Development Management
Zoning Enforcement Section
111 West Chesapeake Avenue
Towson, Maryland 21204

The witness should also be directed to bring with him to the hearing any and all documents, pictures, reports, investigations, field inspections and records in his custody, possession or control concerning the subject property, as well as copies of policies, directives, previous zoning decisions and any other information in his possession or control regarding the applicable provisions of the Baltimore County Zoning Regulations.

Ma Shedd/Private Process Server

Please process this Subpoena Duces Tecum in accordance with Zoning Commissioner's Rule IV.C.

This subpoena request is made by the undersigned attorney

Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, MD 21204
(410) 321-6600

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Property: 11837 Bradshaw Road * ZONING COMMISSIONER
Legal Owner: Tollgate Shell *
Enterprises, Inc. *
11th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
Gary Freund, Zoning Inspector * Case Nos. V-94-189-SPH
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the subject property located at 11837 Bradshaw Road in the Kingsville section of Baltimore County. The property is owned by Tollgate Shell Enterprises, Inc. However, the Petition was filed by Gary C. Freund, a Zoning Inspector with Baltimore County's Office of Zoning Administration and Development Management. The Petition was filed pursuant to Section 26-119 of the Baltimore County Code and numerous sections of the Baltimore County's Zoning Regulations (B.C.Z.R.), including Sections 101, 102.1, 230.13, 405.4.B.6, 405.6.C, 405.6.D, 405.6.E., 405.6.F and 500.7. The question presented within the Petition for Special Hearing is whether the existing automotive service station on site has been in continuous operation for a period of 12 consecutive years. Moreover, a determination was sought as to whether the maintenance of the automotive service station has been in a clean and orderly condition as would be required if the station was, indeed, in operation.

Appearing at the requisite public hearing held for this case was Frederick G. Schiminger, a principal with Tollgate Shell Enterprises, Inc. Also present were a number of interested neighbors and property owners from the Kingsville area. These included Bill Button, Marlene Rollins, D.L. Rollins, Nancy Hastings, Dorothy E. Foos and Karen

Stuebing. These interested persons were represented by Howard L. Alderman, Jr., Esquire, an attorney and resident of the subject area.

Uncontradicted evidence and testimony presented was that the subject site is in deplorable condition. In fact, photographs were attached to the zoning violation file which was considered within the special hearing case. These photographs show that the site is littered with debris and is presently improved with a service station building and island pumps. The building, itself, is not suitable for habitation or business use.

Mr. Alderman also proffered that he had inquired as to the corporate charter of Tollgate Shell Enterprises, Inc. with the Maryland State Department of Assessments and Taxation. As a result of his investigation, he found that, in fact, the charter was forfeited.

As to Mr. Schiminger, he testified that he has owned the property for approximately 12 years. Apparently, the property was in use as an active service station at the time of his acquisition. At that time, the property was used to support a Phillips 66 Filling Station. Subsequently, the business stopped operating. Mr. Schiminger recalled that operations ceased in 1984 or 1985. At that time, the operation was shut down due to a gasoline leak from the underground tanks. The business was shut down as a result of the investigation and order from the Maryland Department of the Environment. Mr. Schiminger noted that no activity has occurred on site since 1985. Moreover, he observed that the underground tanks had been removed as part of the cleanup effort.

After considering all of the evidence and testimony presented, it is clear that the questions presented in the Petition for Special Hearing must be answered in the negative. That is, it is uncontradicted that the automotive service station has not been in continuous operation for the past 12 consecutive months and that there has been no business activity

-2-

for nearly 10 years. Moreover, to repeat, the state of the property is deplorable. The property owner has made few visible efforts to keep the property clean or attractive in any manner. In fact, it may well constitute a public nuisance and certainly is an eyesore in the Kingsville area.

For these reasons, I will grant the Petition for Special Hearing filed in this case by Mr. Freund, on behalf of the Office of Zoning Administration and Development Management. Moreover, as a condition of my approval, I will require the property owner to remove the building and above ground pump islands. This, indeed, will be only the first step in cleaning up a run down property and, hopefully, one day returning same to a legitimate and fruitful use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of February 1994, that, pursuant to the Petition for Special Hearing, under Section 26-119 of the Baltimore County Code and Sections 101, 102.1, 230.13, 405.4.B.6, 405.6.C, 405.6.D, 405.6.E., 405.6.F and 500.7 of the B.C.Z.R., the existing automotive service station on site has not been in continuous operation for a period of 12 consecutive years; and the maintenance of the automotive service station has not been kept in a clean and orderly condition subject, however, to the following restrictions:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

-3-

The property owner, within 30 days from the date of this Order, shall remove all existing structures on the subject site. Moreover, within that timeframe, the above ground gasoline dispensers/pump islands shall, likewise, be removed.

LES:mmn

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

February 2, 1994

Mr. Gary Freund
Zoning Inspector
Office of Zoning Administration and Development Mgt.
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-189-SPH
Petition for Special Hearing
Gary Freund, Zoning Inspector, Office of ZADM
Petitioner
Legal Owner: Tollgate Shell Enterprises, c/o C. Schiminger
Property: 11837 Bradshaw Road, Kingsville

Dear Mr. Freund:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 887-3391.

Very truly yours,

[Signature]
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn
encl.
cc: Mr. Frederick G. Schiminger
cc: Howard L. Alderman, Jr., Esquire,
cc: Mr. Charles Weber

Petition for Special Hearing
Case #: V-94-189-SPH
to the Zoning Commissioner of Baltimore County
for the property located at 11837 BRADSHAW ROAD
which is presently zoned B.L.-C.R.

This Petition shall be filed with the Office of Zoning Administration & Development Management, Baltimore County, Maryland, for a Special Hearing under Sections 26.3 and 26.12104 of the County Code and Section 600.6 of the Zoning Regulations of Baltimore County, for the Zoning Commissioner to conduct a hearing to determine whether the existing use of the property is in compliance with any zoning regulations or rules issued by the Zoning Commissioner, Board of Appeals or Court, or for the proper interpretation thereof, as specifically:

Section number(s): 26-119 Baltimore County Code
101 "Automotive Service Station"; 102.1; 230.13; 405.4B6; 405.6C; 405.6D; 405.6E;
Nature of violation(s): 405.6F; 500.7 BZZR

1. Whether the existing automotive service station has been in continuous operation for a period of twelve consecutive months.
2. Whether the maintenance of the automotive service station has been in a clean and orderly condition as would be required if the station was in operation.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information and belief

11-3-93
Date

[Signature]
Title: Zoning Administration Representative

SUMMONS

ISSUED TO Tollgate Shell Enterprises, Inc.

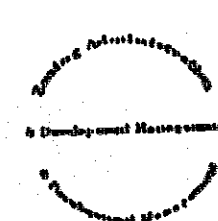
ADDRESS C/O Mr. Lloyd M. St. Ours - Resident Agent

1512 Lady Ann Court
Jarrettsville, Maryland 21084

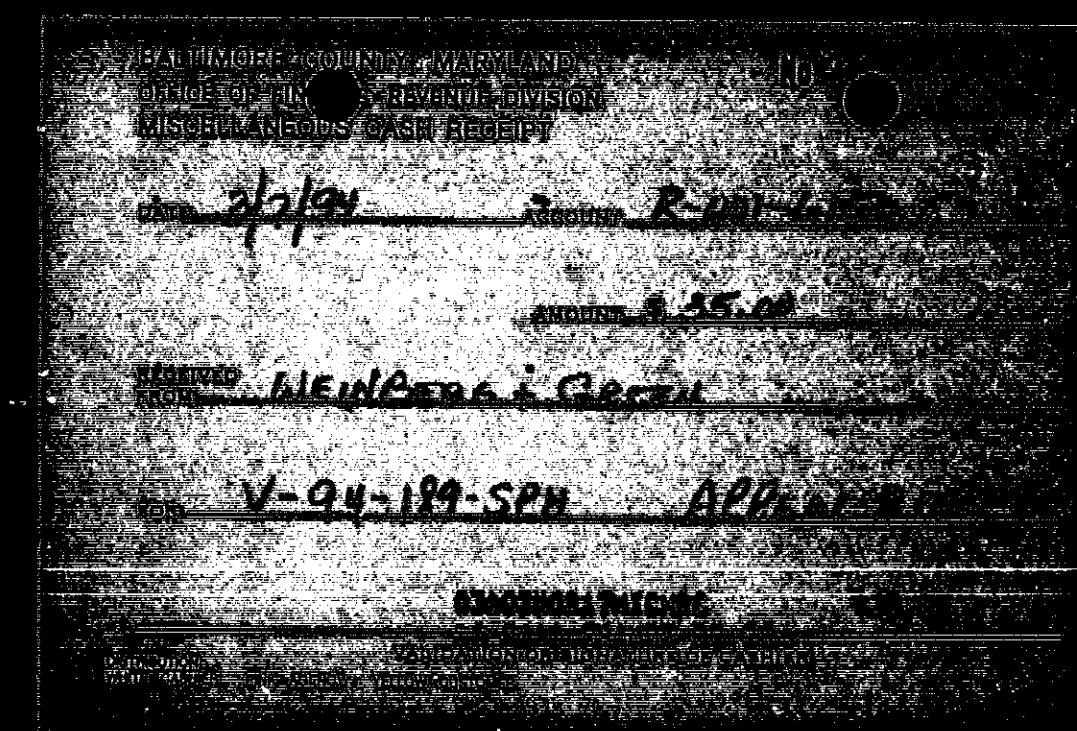
To appear and testify in the matter of an alleged zoning violation or for the purpose of a proper interpretation of the zoning regulations or rules of the Zoning Commissioner, Board of Appeals or Court

Hearing Date: Dec. 2, 1993 Time: 2:00 PM Location: Room 118 Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Please be advised that your failure to appear on the date, time and location stated above could result in your attachment.



RETURNED TO OFFICE OF ZONING



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DECEMBER 1, 1993

NOTICE OF REASSIGNMENT

CASE NUMBER: V-94-189-SPH (CPL 0004)
11837 Bradshaw Road
Property Owner: Tollgate Shell Enterprises, Inc.

Special Hearing to determine whether the existing automotive service station has been in continuous operation for a period of 12 consecutive months; and whether the maintenance of the automotive service station has been in a clean and orderly condition as would be required if the station was in operation.

HEARING: WEDNESDAY, DECEMBER 29, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

[Signature]

ARNOLD JARLAN
DIRECTOR

cc: Fred Schiminger
Charles Weber
Howard Alderman, Jr., Esq.

TOLLGATE ENTERPRISES, INC. * BEFORE THE
and * COUNTY BOARD OF APPEALS
FREDERICK G. SCHIMINGER and * OF
JOSEPHINE SCHIMINGER * BALTIMORE COUNTY
Appellants * Case No.: V94-189-SPH
* * * * *

CONSENT ORDER

Tollgate Enterprises, Inc., Frederick G. Schiminger and Josephine Schiminger, Appellants herein, by Robert W. Cannon and Weinberg and Green, their attorneys and Baltimore County, Maryland, by Stanley J. Schapiro, Baltimore County Attorney, hereby respectfully submit this Consent Order to the Board of Appeals for its consideration and proposed adoption.

WHEREAS, the Appellants filed this Administrative Appeal on March 3, 1994 from a decision of the Baltimore County Zoning Commissioner dated February 2, 1994; and

WHEREAS, the parties have entered into a Settlement Agreement and License ("Agreement") effective April 13, 1994, a copy of which is attached as Exhibit A; and respectfully ask that the Board incorporate said Agreement in a Consent Order.

Upon the foregoing representations and based upon the Agreement, it is this 3rd day of May, 1994, by the County Board of Appeals for Baltimore County ORDERED as follows:

1. That the Agreement attached as Exhibit A is hereby approved.

2. That passage of this Order resolves all disputes in this matter.

THE COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

By: William T. Hackett
William T. Hackett, Chairman

By: S. Diane Levens
S. Diane Levens

By: Judson H. Lipow
Judson H. Lipow

APPROVED AS TO FORM
AND SUFFICIENCY

Stanley J. Schapiro
Stanley J. Schapiro
County Attorney

SETTLEMENT AGREEMENT AND LICENSE

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between TOLLGATE ENTERPRISES, INC., FREDERICK G. SCHIMINGER, and JOSEPHINE SCHIMINGER (collectively hereinafter "Tollgate") and BALTIMORE COUNTY, MARYLAND (hereinafter the "County"). The Agreement shall be effective upon execution by the parties.

RECITALS

WHEREAS Tollgate Enterprises, Inc. owns certain property located at 11837 Bradshaw Road in Kingsville, Maryland (the "Property"). Said Property is located in the 11th Councilmanic District and is identified in the County Assessment Records as property No. 11 17 010450

WHEREAS a building and other improvements are currently located on the Property.

WHEREAS the County wants to use the Property as park land.

WHEREAS Frederick G. Schiminger and Josephine Schiminger are the sole shareholders of Tollgate Enterprises, Inc.

WHEREAS the County's Office of Zoning Administration and Development Management has initiated an action against Tollgate seeking to require that Tollgate remove the improvements from the Property.

NOW THEREFORE, in consideration of the covenants, terms and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tollgate and the County agree as follows:

1. The foregoing recitals are a material part of this Agreement and are incorporated herein as if set forth in their entirety.

2. The County shall, within 90 days after the effective date of this Agreement, at the sole expense of the County, demolish and remove all improvements from the Property, and shall grade and plant the Property in a manner appropriate for its use as park land.

3. In performing the work described in the foregoing Paragraph 2 of this Agreement, the County shall not disturb or interfere with the monitoring wells installed at the Property in connection with Tollgate's cleanup of releases of petroleum products (the "Wells").

4. Tollgate, upon execution of this Agreement, grants to the County a terminable license (the "License") to use the Property as park land.

5. During the term of the License, Tollgate shall not be the operator of the Property and shall not be responsible for any injury or harm resulting from the use or occupancy of the Property by the County or the public. The County assumes responsibility for the Property and agrees to make all necessary repairs, to perform all maintenance required to keep the Property in a clean and safe condition and to indemnify and hold Tollgate harmless from any and all claims arising out of or in connection with the use or occupancy of the Property by the County or the public.

6. During the term of the License, the County shall not disturb or interfere with the Wells and shall exercise reasonable care to prevent the public from interfering with the Wells.

7. Tollgate shall have an absolute right, upon 15 days' notice to the County, to terminate the License.

8. The County has no current intention, and will not initiate or support any efforts, to change the zoning of the Property.

9. Upon demolition and removal of the improvements at the Property, the County shall assist Tollgate in reducing the assessed value of the Property for property tax purposes.

10. Tollgate shall remain responsible for any remediation measures at the Property related to underground storage tanks and/or releases of petroleum products occurring before the effective date of this Agreement.

11. The County and Tollgate shall jointly petition the County Board of Appeals of Baltimore County to adopt this Agreement as its Consent Order with respect to the pending appeal (Case No. V-94-189-SPH) of the Order of the Zoning Commissioner dated February 2, 1994 in Case No. V-94-189-SPH.

12. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature of or on behalf of each party appear on each counterpart, but it shall be sufficient that the signature of or on behalf of each party appear on one or more of the counterparts. All counterparts shall collectively constitute a single Agreement. It shall not be necessary in any proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of or on behalf of all the parties hereto.

[SIGNATURES CONTINUED]

[SIGNATURES CONTINUED]

Frederick G. Schiminger
Frederick G. Schiminger
by Frederick G. Schiminger

4-13-94
Date

Frederick G. Schiminger
Frederick G. Schiminger

4-13-94
Date

Josephine Schiminger
Josephine Schiminger

4/13/94
Date

BALTIMORE COUNTY, MARYLAND

By: Roger B. Hayden
Title: County Executive
Roger B. Hayden

4/13/94
Date

STANLEY J. SCHAPIRO

STANLEY J. SCHAPIRO
COUNTY ATTORNEY



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 3, 1994

Robert W. Cannon, Esquire
WEINBERG AND GREEN
100 South Charles Street
Baltimore, MD 21201-2773

RE: Case No. V-94-189-SPH
Tollgate Enterprises, Inc.

Dear Mr. Cannon:

Enclosed please find a copy of the Consent Order issued this date by the County Board of Appeals of Baltimore County, pursuant to Settlement Agreement between the parties in the above-referenced matter.

Very truly yours,
Charlotte S. Rulchiff
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Tollgate Shell Enterprises
Mr. Frederick G. Schiminger
Howard L. Alderman, Jr., Esquire
Mr. Charles L. Weber
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy W. Rotroo
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director/ZADM

TOLLGATE ENTERPRISES, INC. * BEFORE THE
and * COUNTY BOARD OF APPEALS
FREDERICK G. SCHIMINGER and * OF
JOSEPHINE SCHIMINGER * BALTIMORE COUNTY
Appellants * Case No.: V94-189-SPH
* * * * *

JOINT PETITION

Tollgate Enterprises, Inc., fka Tollgate Shell Enterprises, Inc., Frederick G. Schiminger and Josephine Schiminger, Appellants herein, by Robert W. Cannon and Weinberg and Green, their attorneys, and Baltimore County, Maryland, by Stanley J. Schapiro, Baltimore County Attorney, hereby respectfully petition the County Board of Appeals to adopt the Settlement Agreement and License ("Agreement") between the parties attached hereto as Exhibit A as the Order of the Board by adopting a Consent Order substantially in the form attached hereto as Exhibit B.

The parties consent to the Order being passed by the Board and each party hereby waives all rights of appeal provided said Consent Order shall be in accord with the terms of the Agreement.

Robert W. Cannon
Robert W. Cannon, Esquire
ATTORNEY FOR TOLLGATE ENTERPRISES,
INC., FREDERICK G. SCHIMINGER, and
JOSEPHINE SCHIMINGER

4/20/94
Date

[SIGNATURES CONTINUED]

91 S W 13 24 94
STV344V 40 0008 410008
03/19/94

[SIGNATURES CONTINUED]

Stanley J. Schapiro
Stanley J. Schapiro, Esquire
ATTORNEY FOR BALTIMORE COUNTY,
MARYLAND

4/21/94
Date

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(410) 332-8862
WASHINGTON AREA (202) 470-7402

10480 LITTLE PATENTWAY PARKWAY
COLUMBIA, MARYLAND 21044-3508
(410) 740-8500

FACSIMILE
(410) 332-8862

FILE NUMBER

WRITER'S DIRECT DIAL NUMBER
(410) 332-8816

February 1, 1994

Honorable Lawrence E. Schmidt
Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. V-94-189-SPH (C93-2809)
11837 Bradshaw Road
Property Owner: Tollgate Shell Enterprises, Inc.

Dear Commissioner Schmidt:

We have been contacted by the property owner regarding the referenced matter which was heard on December 29, 1993.

Please forward a copy of the Order in this matter to me.

Very truly yours,

Robert W. Cannon
Robert W. Cannon

0410p/0081/ksm

cc: Mr. Fred G. Schiminger
Howard Alderman, Jr., Esquire

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOMPER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOMPER 410-296-2801

ELLIS LEVIN (893-1960)

HOWARD L. ALDERMAN, JR.

February 8, 1994

Lawrence E. Schmidt, Esquire
Zoning Commissioner for Baltimore County
Court House
Towson, MD 21204

RE: Case No. 94-189-SPH / Legal Owner: Tollgate Shell Enterprises
Property: 11837 Bradshaw Road, Kingsville

Dear Commissioner Schmidt:

I have read with interest your decision dated February 2, 1993 in the above-referenced matter. The relief ordered is consistent with your verbal indications at the conclusion of the hearing held on this matter.

In the interest of clarity, I would respectfully suggest a couple of minor modifications to your decision as follows:

- At the top of page 2, I hope that I stated for the record that I had filed a complaint and that I was representing my self. I believe that I also indicated that while I did not, technically, represent the members of the community present, I would call them as witnesses and examine them if the same had been necessary.
- The other minor modifications suggested relate to the period of time that an automobile service station must remain in continuous operation. I believe that where your decision speaks to "a period of 12 consecutive years" it should read "a period of 12 consecutive months". See page 1, 9 lines from the bottom; page 3, 7th line of the relief paragraph.

I would ask that you consider these suggested modifications in the spirit in which they are offered and then take the steps that you deem appropriate. Thank you for your consideration of this request.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA/gk

cc: Robert W. Cannon, Esquire (on behalf of Tollgate Shell Enterprises, Inc.)

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(410) 332-8862
Facsimile (410) 332-8862 (410) 332-8863

FACSIMILE TRANSMITTAL

To: Lawrence Schmidt

From: Robert Cannon

Company:

Direct No.: (410) 332-8862

City:

State:

Date: 2/14/94

Fax No.: () 332-8862

Time:

Phone No.: () 332-8862

Hard Copy will follow by mail: Yes No

No. of Pages: 2
(including this page)

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE (410) 332-8640 IMMEDIATELY.

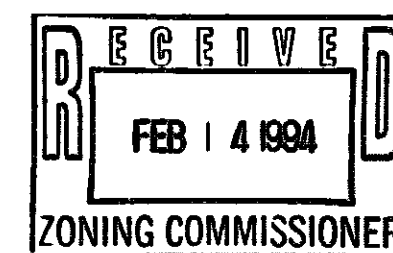
Client/Matter No.: 032011

Return to Station No.: 111

Confirmed by:

Time:

Message:



CONFIDENTIALITY NOTICE

THIS FACSIMILE TRANSMISSION CONTAINS CONFIDENTIAL INFORMATION BELONGING TO THE SENDER, WHICH MAY BE LEGALLY PRIVILEGED INFORMATION. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT, PLEASE DO NOT REPRODUCE, COPY, DISCLOSE, OR IN ANY MANNER USE THE INFORMATION. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE TO ARRANGE FOR RETURN OF THE ORIGINAL FACSIMILE DOCUMENTS TO THE SENDER.

WEINBERG AND GREEN

(410) 332-8862

February 11, 1994

VIA FACSIMILE

Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. V-94-189-SPH (C93-2809)
11837 Bradshaw Road
Property Owner: Tollgate Shell Enterprises, Inc.

Dear Commissioner Schmidt:

Thank you for forwarding me a copy of your decision regarding the above-referenced matter. I have received acknowledgment receipt of a copy of the decision dated February 2, 1994 from Howard L. Alderman, Jr. regarding the same matter.

On behalf of the property owner, Tollgate Shell Enterprises, Inc., we respectfully request that you consider the suggested modifications to your decision. We have cooperated for additional testimony. We have also provided this proceeding without the benefit of legal counsel. In order to ensure that the property owner is not unfairly prejudiced, we respectfully request that you consider the suggested modifications to your decision.

Very truly yours,

Robert W. Cannon
Robert W. Cannon

cc: Mr. Fred G. Schiminger

cc: Howard L. Alderman, Jr., Esquire



BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOMPER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOMPER 410-296-2801

ELLIS LEVIN (893-1960)

HOWARD L. ALDERMAN, JR.

February 14, 1994

Lawrence E. Schmidt, Esquire
Zoning Commissioner for Baltimore County
Court House
Towson, MD 21204

RE: Case No. 94-189-SPH / Legal Owner: Tollgate Shell Enterprises
Property: 11837 Bradshaw Road, Kingsville

Dear Commissioner Schmidt:

I am in receipt of Bob Cannon's letter of February 10, 1994 regarding the above-referenced matter. Mr. Cannon, on behalf of his client Tollgate Shell Enterprises, Inc., has requested that the proceedings in this case "be reopened for additional testimony."

I must oppose this request. Although Mr. Schiminger appeared without legal counsel, he testified, I believe, honestly and accurately regarding the issues before you in this case. Any relevant "additional testimony" that would be offered with the benefit of legal counsel would have to contradict directly that testimony given previously by Mr. Schiminger. The absence of legal counsel is not a sufficient basis to reopen these proceedings in that Mr. Schiminger's direct and uncontradicted testimony in response to your questions regarding the standards of the Baltimore County Zoning Regulations was given without hesitation or reservation and was dispositive.

If Messrs. Schiminger or Cannon believe that your decision, based on the evidence before you, was incorrect the appeal available is a *de novo* proceeding. Any request for additional testimony should be viewed as a further delay technique during which the deplorable condition of the subject property will not be remedied.

For all of the above reasons I respectfully request that you deny Mr. Cannon's request.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA/gk

cc: Robert W. Cannon, Esquire

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(410) 332-8862
WASHINGTON AREA (202) 470-7400

10480 LITTLE PATENTWAY PARKWAY
COLUMBIA, MARYLAND 21044-3508
(410) 740-8500

FACSIMILE
(410) 332-8862

FILE NUMBER

WRITER'S DIRECT DIAL NUMBER

March 3, 1994

NOTICE OF APPEAL

TO: Honorable Arnold Jablon, Esquire
Director
Zoning Administration and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Property: 11837 Bradshaw Road * ZONING COMMISSIONER
Legal Owner: Tollgate Shell * OF BALTIMORE COUNTY
Enterprises, Inc. *
11th Election District *
6th Councilmanic District * Case Nos. V-94-189-SPH
Gary Freund, Zoning Inspector *
Petitioner *

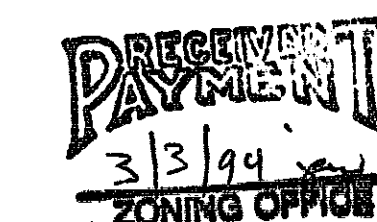
On behalf of Tollgate Enterprises, Inc., f/k/a Tollgate Shell Enterprises, Inc. and Frederick G. Schiminger and Josephine Schiminger, Directors and Trustees, we hereby appeal the Order of the Zoning Commissioner dated February 2, 1994, a copy of which is attached hereto.

Our check in the amount of \$210.00 is enclosed. The address of the appellants for purposes of this appeal is:

c/o Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

Very truly yours,

Robert W. Cannon
Robert W. Cannon



04611(7338)/0081/ksm

cc: Honorable William C. Hackett
Howard L. Alderman, Jr., Esquire

NOTICE to the Director of Zoning Administration & Development Management

Special Hearing # V-94-189-SPH

Date

I hereby acknowledge receipt of the attached Petition for Special Hearing

Date 11-11-93 Signature *Fred Schiminger*

Address 1107 Milchling Drive

Bel Air MD.

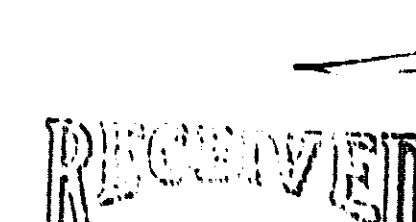
Phone # 410-638-0135

W-410-771-2077

RETURN TO:

Director of Zoning Administration and Development Management
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

Sir
I will not be in town
on the scheduled date of Dec 2
1993 2 PM. Any date that
you could Reschedule after Dec 2
would work for me



Frank Schiminger
Fred Schiminger

Charles L. Weber
6628 Blackhead Road
Kingsville, Maryland 21087
410-592-2103

November 27, 1993

Arnold Jablon
Office of Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. V-94-189-SPH
11837 Bradshaw Road
11th Election District

Dear Mr. Jablon:

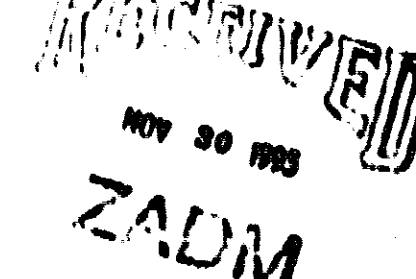
I have received the notice of the hearing date for the above property. Unfortunately I will be out of town during this period, but I am very much interested in having my input included in the testimony. The above mentioned property is in an abominable state of decay. The paving is broken up, there are old gasoline pumps that are pulled apart, and overgrown weeds. Wild trees have begun to grow and more are starting to grow. Tagged and untaged cars are parked there constantly for extended periods of time. Tow trucks from GM Automotive are left on the property overnight.

I believe if this is left to continue the Belair Road corridor will end up looking like Liberty Road and Reisterstown Road, thereby lowering the property value.

I hope this information will be helpful in cleaning up this property.

Sincerely,

Charles L. Weber
Charles L. Weber



Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

November 4, 1993

Mr. Charles Weber
11711 Kingtop Drive
Kingsville, Maryland 21087

Re: Case No. V-94-189-SPH
11837 Bradshaw Road
11th Election District

Dear Mr. Weber:

Enclosed is a copy of the special hearing petition issued to the property owner for the referenced case.

Baltimore County has established a time, date, and location for this hearing that will be addressed either before the zoning commissioner or deputy zoning commissioner.

The possibility does exist that this case may be continued due to the failure of the property owner (defendant) to acknowledge service or the request of a continuance by their attorney.

The Office of Zoning Administration and Development Management will make every effort to update you of all subsequent developments relative to this matter.

Sincerely,

Arnold Jablon
Director

AJ/hek
Enclosure

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

February 25, 1994

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

Howard L. Alderman, Jr., Esquire
Levin and Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

Robert W. Cannon, Esquire
100 South Charles Street
Baltimore, Maryland 21201-2773

RE: Case No. 94-189-SPH - Property: 11837 Bradshaw Rd., Kingsville
Legal Owner: Tollgate Shell Enterprises

Gentlemen:

This is to acknowledge Mr. Cannon's letter dated February 10, 1994 and Mr. Alderman's letters of February 8 and February 14, 1994.

As to Mr. Alderman's initial letter, my recollection is that his participation at the hearing was as is stated in the letter. I do recall Mr. Alderman indicating that he was representing himself at the hearing, however, he assisted in the conduct of the other Protestants' testimony in view of the fact that they were unrepresented. Also, the Petition does indeed indicate that the question related to the use of the property for a period of 12 consecutive months. Thus, my opinion and order should be corrected by striking the word "years" and inserting the word "months" on page 1, line 9 and page 3, line 7. I will attach a copy of this letter to my Order making that technical change.

As to Mr. Cannon's request, I concur with Mr. Alderman as to the merits of this case. Mr. Schiminger testified honestly and openly about the issues raised in this case. I have summarized his testimony on page 2 of my opinion. I do not anticipate any testimony, other than perjured remarks, which could affect my findings in this case as to the merits. The only issue which might be proffered for consideration may be the restrictions which I have incorporated in my Order.

Under the circumstances, I am inclined to deny Mr. Cannon's request unless the proffered additional testimony would relate to these restrictions. Might I suggest that Mr. Cannon arrange for a conference call between myself and counsel to discuss this issue. I understand that the appeal time is running on this case and my ruling is, therefore, timely needed.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

APPEAL

Petition for Special Hearing
11837 Bradshaw Road
Legal Owner - Tollgate Shell Enterprises
11th Election District - 6th Councilmanic District
Gary Freund, Zoning Inspector-PETITIONER
Case No. V-94-189-SPH

Petition(s) for Special Hearing

Petitioner(s) and Protest(s) Sign-In Sheets

Notice of Special Hearing Acknowledgment

Notice of Reassignment

Letter from Robert W. Cannon dated February 10, 1994

Letter from Howard L. Alderman, Jr. dated February 8, 1994

Letter from Howard L. Alderman, Jr. dated February 14, 1994

Letter from Lawrence E. Schmidt dated February 25, 1994

Zoning Commissioner's Order dated February 2, 1994 (Denied)

Notice of Appeal received on March 3, 1994 from Robert W. Cannon, Esquire

c: Mr. Gary Freund, Zoning Inspector, Office of Zoning Administration and Development Management, Enforcement Section, 111 W. Chesapeake Avenue, Towson, MD 21204

Mr. Frederick G. Schiminger, 1107 Milohling Drive, Belair, MD 21015

Howard L. Alderman, Jr., Esquire, Levin and Gann, 305 W. Chesapeake Avenue, Suite 113, Towson, MD 21204

Mr. Charles L. Weber, 8638 Blackhead Road, Kingsville, MD 21087

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, MD 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Koller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Stephen Glass
Arnold Jablon, Director of ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 13, 1994

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. V94-189-SPH

TOLLGATE SHELL ENTERPRISES, INC. -Legal Owner; Gary Freund, Zoning Inspector - Petitioner (Petition filed by ZADM) (11837 Bradshaw Road) 11th Election District 6th Councilmanic District

SPH - To determine whether the existing auto. srvc station on site has been in continuous operation for 12 consecutive months; and whether maintenance of site has been in clean/orderly condition.

2/02/94 -D.Z.C.'s Order determining that existing auto. srvc station has not been in continuous operation for required period; maintenance of same has not been kept in clean/orderly condition; & removal of all existing structures within 90 days of Order.

ASSIGNED FOR:

WEDNESDAY, JULY 6, 1994 at 10:00 a.m.

cc: Robert W. Cannon, Esquire Counsel for Legal Owner /Appellant
Tollgate Shell Enterprises Legal Owner /Appellant
Howard L. Alderman, Jr., Esquire
Mr. Frederick G. Schiminger
Mr. Charles L. Weber
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
James Thompson /ZADM
Gary Freund /Zoning Inspector
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.

Printed with Soybean Ink
on Recycled Paper

4/13/94 - Following parties notified of hearing set for Wednesday, July 6, 1994 at 10:00 a.m.:

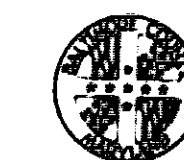
Robert W. Cannon, Esquire
Tollgate Shell Enterprises
Howard L. Alderman, Jr., Esquire
Mr. Frederick G. Schiminger
Mr. Charles L. Weber
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
James Thompson /ZADM
Gary Freund /Zoning Inspector
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

4/22/94 - Joint Petition filed by Robert Cannon, Esquire on behalf of Tollgate Enterprises and the Schimingers, and Baltimore Co., MD by Stanley Schapiro, County Attorney to petition the CBA to adopt the Settlement Agreement and License as the Order of the Board by adopting a Consent Order.

Case No. V94-189-SPH

Tollgate Enterprises, Inc.

4/21/94 -Joint Petition filed by R. Cannon, Esquire, on behalf of Tollgate Enterprises, Inc., Frederick G. Schiminger and Joseph Schiminger, Appellants, and by Stanley J. Schapiro, Baltimore County Attorney, on behalf of Baltimore County, Maryland, for adoption by Board of Settlement Agreement of parties; proposed Consent Order also filed; all rights of appeal to be waived.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 6, 1994

Robert W. Cannon, Esquire
WEINBERG AND GREEN
100 South Charles Street
Baltimore, MD 21201-2773

RE: Case No. V 94 189 SPH
TOLLGATE ENTERPRISES, INC;

Dear Mr. Cannon:

As no further appeals have been taken regarding the subject matter, we have closed the file and returned same to the Office of Zoning Administration and Development Management, along with any exhibits entered in this matter. The Zoning Office maintains the permanent file.

Anyone interested in either the file or the exhibits is advised to contact the Zoning Director's Office at 887-3153 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in this file have been notified.

Sincerely,

Charlotte E. Radcliffe
Legal Secretary

cc: Tollgate Shell Enterprises
Mr. Frederick G. Schiminger
Howard L. Alderman, Jr., Esquire
Mr. Charles L. Weber
People's Counsel for Baltimore County

Printed with Soybean Ink
on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 4, 1994

Mr. Gary Freund
Zoning Inspector
Office of Zoning Administration and
Development Management, Enforcement Section
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Special Hearing
11837 Bradshaw Road
Legal Owner: Tollgate Shell Enterprises, Inc.
11th Election District
6th Councilmanic District
Gary Freund, Zoning Inspector-Petitioner
Case No. V-94-189-SPH

Dear Mr. Freund:

Please be advised that an appeal of the above-referenced case was filed in this office on March 3, 1994 by Robert W. Cannon, Esquire on behalf of Tollgate Enterprises, Inc. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

Arnold Jablon
Director

AJ:jaw

c: Mr. Frederick G. Schiminger
Howard L. Alderman, Jr., Esquire
Mr. Charles Weber
People's Counsel

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Property: 11837 Bradshaw Road * ZONING COMMISSIONER
Legal Owner: Tollgate Shell *
Enterprises, Inc. *
11th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
Gary Freund, Zoning Inspector * Case Nos. V-94-189-SPH
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the subject property located at 11837 Bradshaw Road in the Kingsville section of Baltimore County. The property is owned by Tollgate Shell Enterprises, Inc. However, the Petition was filed by Gary C. Freund, a Zoning Inspector with Baltimore County's Office of Zoning Administration and Development Management. The Petition was filed pursuant to Section 26-119 of the Baltimore County Code and numerous sections of the Baltimore County's Zoning Regulations (B.C.Z.R.), including Sections 101, 102.1, 230.13, 405.4.B.6, 405.6.C, 405.6.D, 405.6.E, 405.6.F and 500.7. The question presented within the Petition for Special Hearing is whether the existing automotive service station on site has been in continuous operation for a period of 12 consecutive years. Moreover, a determination was sought as to whether the maintenance of the automotive service station has been in a clean and orderly condition as would be required if the station was, indeed, in operation.

Appearing at the requisite public hearing held for this case was Frederick G. Schiminger, a principal with Tollgate Shell Enterprises, Inc. Also present were a number of interested neighbors and property owners from the Kingsville area. These included Bill Button, Marlene Rollins, D.L. Rollins, Nancy Hastings, Dorothy E. Foos and Karen

Stuebing. These interested persons were represented by Howard L. Alderman, Jr., Esquire, an attorney and resident of the subject area.

Uncontradicted evidence and testimony presented was that the subject site is in deplorable condition. In fact, photographs were attached to the zoning violation file which was considered within the special hearing case. These photographs show that the site is littered with debris and is presently improved with a service station building and island pumps. The building, itself, is not suitable for habitation or business use.

Mr. Alderman also proffered that he had inquired as to the corporate charter of Tollgate Shell Enterprises, Inc. with the Maryland State Department of Assessments and Taxation. As a result of his investigation, he found that, in fact, the charter was forfeited.

As to Mr. Schiminger, he testified that he has owned the property for approximately 12 years. Apparently, the property was in use as an active service station at the time of his acquisition. At that time, the property was used to support a Phillips 66 Filling Station. Subsequently, the business stopped operating. Mr. Schiminger recalled that operations ceased in 1984 or 1985. At that time, the operation was shut down due to a gasoline leak from the underground tanks. The business was shut down as a result of the investigation and order from the Maryland Department of the Environment. Mr. Schiminger noted that no activity has occurred on site since 1985. Moreover, he observed that the underground tanks had been removed as part of the cleanup effort.

After considering all of the evidence and testimony presented, it is clear that the questions presented in the Petition for Special Hearing must be answered in the negative. That is, it is uncontradicted that the automotive service station has not been in continuous operation for the past 12 consecutive months and that there has been no business activity

-2-

for nearly 10 years. Moreover, to repeat, the state of the property is deplorable. The property owner has made few visible efforts to keep the property clean or attractive in any manner. In fact, it may well constitute a public nuisance and certainly is an eyesore in the Kingsville area.

For these reasons, I will grant the Petition for Special Hearing filed in this case by Mr. Freund, on behalf of the Office of Zoning Administration and Development Management. Moreover, as a condition of my approval, I will require the property owner to remove the building and above ground pump islands. This, indeed, will be only the first step in cleaning up a run down property and, hopefully, one day returning same to a legitimate and fruitful use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of February 1994, that, pursuant to the Petition for Special Hearing, under Section 26-119 of the Baltimore County Code and Sections 101, 102.1, 230.13, 405.4.B.6, 405.6.C, 405.6.D, 405.6.E., 405.6.F and 500.7 of the B.C.Z.R., the existing automotive service station on site has not been in continuous operation for a period of 12 consecutive years; and the maintenance of the automotive service station has not been kept in a clean and orderly condition subject, however, to the following restrictions:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

-3-

The property owner, within 30 days from the date of this Order, shall remove all existing structures on the subject site. Moreover, within that timeframe, the above ground gasoline dispensers/pump islands shall, likewise, be removed.

LES:mmn

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

ORDER RECEIVED FOR FILING

Date: 2/2/94
By: [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

February 2, 1994

Mr. Gary Freund
Zoning Inspector
Office of Zoning Administration and Development Mgt.
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-189-SPH
Petition for Special Hearing
Gary Freund, Zoning Inspector, Office of ZAM
Petitioner
Legal Owner: Tollgate Shell Enterprises, c/o C. Schiminger
Property: 11837 Bradshaw Road, Kingsville

Dear Mr. Freund:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 887-3391.

Very truly yours,

[Signature]
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn
encl.
cc: Mr. Frederick G. Schiminger
cc: Howard L. Alderman, Jr., Esquire,
cc: Mr. Charles Weber

Petition for Special Hearing
Case #: V-94-189-SPH
to the Zoning Commissioner of Baltimore County
for the property located at 11837 BRADSHAW ROAD
which is presently zoned B.L.-C.R.

This Petition shall be filed with the Office of Zoning Administration & Development Management, Baltimore County, Maryland, for a Special Hearing under Sections 26.3 and 26.12104 of the County Code and Section 600.6 of the Zoning Regulations of Baltimore County, for the Zoning Commissioner to conduct a hearing to determine whether the existing use of the property is in compliance with any zoning regulations or rules issued by the Zoning Commissioner, Board of Appeals or Court, or for the proper interpretation thereof, as specifically:

Section number(s): 26-119 Baltimore County Code
101 "Automotive Service Station"; 102.1; 230.13; 405.4B6; 405.6C; 405.6D; 405.6E;
Nature of violation(s): 405.6F; 500.7 BZZR

1. Whether the existing automotive service station has been in continuous operation for a period of twelve consecutive months.
2. Whether the maintenance of the automotive service station has been in a clean and orderly condition as would be required if the station was in operation.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information and belief

11-3-93
Date

[Signature]
Title: Zoning Administration Representative

SUMMONS

ISSUED TO Tollgate Shell Enterprises, Inc.

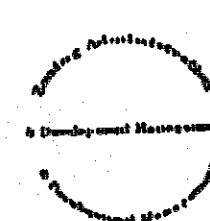
ADDRESS C/O Mr. Lloyd M. St. Ours - Resident Agent

1512 Lady Ann Court
Jarrettsville, Maryland 21084

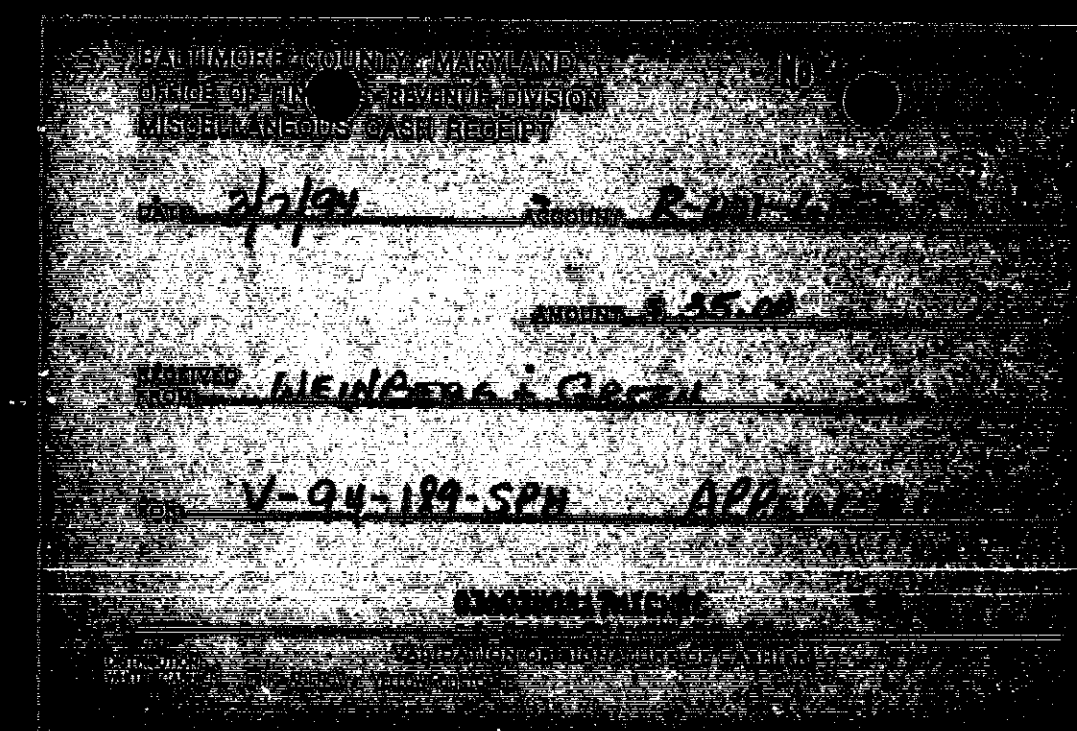
To appear and testify in the matter of an alleged zoning violation or for the purpose of a proper interpretation of the zoning regulations or rules of the Zoning Commissioner, Board of Appeals or Court

Hearing Date: Dec. 2, 1993 Time: 2:00 PM Location: Room 118 Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Please be advised that your failure to appear on the date, time and location stated above could result in your attachment.



RETURNED TO OFFICE OF ZONING



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DECEMBER 1, 1993

NOTICE OF REASSIGNMENT

CASE NUMBER: V-94-189-SPH (CPL 0004)
11837 Bradshaw Road
Property Owner: Tollgate Shell Enterprises, Inc.

Special Hearing to determine whether the existing automotive service station has been in continuous operation for a period of 12 consecutive months; and whether the maintenance of the automotive service station has been in a clean and orderly condition as would be required if the station was in operation.

HEARING: WEDNESDAY, DECEMBER 29, 1993 at 2:00 p.m. in Room 118, Old Courthouse.

[Signature]

ARNOLD JARLAN
DIRECTOR

cc: Fred Schiminger
Charles Weber
Howard Alderman, Jr., Esq.

TOLLGATE ENTERPRISES, INC. * BEFORE THE
and * COUNTY BOARD OF APPEALS
FREDERICK G. SCHIMINGER and * OF
JOSEPHINE SCHIMINGER * BALTIMORE COUNTY
Appellants * Case No.: V94-189-SPH
* * * * *

CONSENT ORDER

Tollgate Enterprises, Inc., Frederick G. Schiminger and Josephine Schiminger, Appellants herein, by Robert W. Cannon and Weinberg and Green, their attorneys and Baltimore County, Maryland, by Stanley J. Schapiro, Baltimore County Attorney, hereby respectfully submit this Consent Order to the Board of Appeals for its consideration and proposed adoption.

WHEREAS, the Appellants filed this Administrative Appeal on March 3, 1994 from a decision of the Baltimore County Zoning Commissioner dated February 2, 1994; and

WHEREAS, the parties have entered into a Settlement Agreement and License ("Agreement") effective April 13, 1994, a copy of which is attached as Exhibit A; and respectfully ask that the Board incorporate said Agreement in a Consent Order.

Upon the foregoing representations and based upon the Agreement, it is this 3rd day of May, 1994, by the County Board of Appeals for Baltimore County ORDERED as follows:

1. That the Agreement attached as Exhibit A is hereby approved.

2. That passage of this Order resolves all disputes in this matter.

THE COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

By: William T. Hackett
William T. Hackett, Chairman

By: S. Diane Levens
S. Diane Levens

By: Judson H. Lipow
Judson H. Lipow

APPROVED AS TO FORM
AND SUFFICIENCY

Stanley J. Schapiro
Stanley J. Schapiro
County Attorney

SETTLEMENT AGREEMENT AND LICENSE

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between TOLLGATE ENTERPRISES, INC., FREDERICK G. SCHIMINGER, and JOSEPHINE SCHIMINGER (collectively hereinafter "Tollgate") and BALTIMORE COUNTY, MARYLAND (hereinafter the "County"). The Agreement shall be effective upon execution by the parties.

RECITALS

WHEREAS Tollgate Enterprises, Inc. owns certain property located at 11837 Bradshaw Road in Kingsville, Maryland (the "Property"). Said Property is located in the 11th Councilmanic District and is identified in the County Assessment Records as property No. 11 17 010450

WHEREAS a building and other improvements are currently located on the Property.

WHEREAS the County wants to use the Property as park land.

WHEREAS Frederick G. Schiminger and Josephine Schiminger are the sole shareholders of Tollgate Enterprises, Inc.

WHEREAS the County's Office of Zoning Administration and Development Management has initiated an action against Tollgate seeking to require that Tollgate remove the improvements from the Property.

NOW THEREFORE, in consideration of the covenants, terms and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tollgate and the County agree as follows:

1. The foregoing recitals are a material part of this Agreement and are incorporated herein as if set forth in their entirety.

2. The County shall, within 90 days after the effective date of this Agreement, at the sole expense of the County, demolish and remove all improvements from the Property, and shall grade and plant the Property in a manner appropriate for its use as park land.

3. In performing the work described in the foregoing Paragraph 2 of this Agreement, the County shall not disturb or interfere with the monitoring wells installed at the Property in connection with Tollgate's cleanup of releases of petroleum products (the "Wells").

4. Tollgate, upon execution of this Agreement, grants to the County a terminable license (the "License") to use the Property as park land.

5. During the term of the License, Tollgate shall not be the operator of the Property and shall not be responsible for any injury or harm resulting from the use or occupancy of the Property by the County or the public. The County assumes responsibility for the Property and agrees to make all necessary repairs, to perform all maintenance required to keep the Property in a clean and safe condition and to indemnify and hold Tollgate harmless from any and all claims arising out of or in connection with the use or occupancy of the Property by the County or the public.

6. During the term of the License, the County shall not disturb or interfere with the Wells and shall exercise reasonable care to prevent the public from interfering with the Wells.

7. Tollgate shall have an absolute right, upon 15 days' notice to the County, to terminate the License.

8. The County has no current intention, and will not initiate or support any efforts, to change the zoning of the Property.

9. Upon demolition and removal of the improvements at the Property, the County shall assist Tollgate in reducing the assessed value of the Property for property tax purposes.

10. Tollgate shall remain responsible for any remediation measures at the Property related to underground storage tanks and/or releases of petroleum products occurring before the effective date of this Agreement.

11. The County and Tollgate shall jointly petition the County Board of Appeals of Baltimore County to adopt this Agreement as its Consent Order with respect to the pending appeal (Case No. V-94-189-SPH) of the Order of the Zoning Commissioner dated February 2, 1994 in Case No. V-94-189-SPH.

12. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature of or on behalf of each party appear on each counterpart, but it shall be sufficient that the signature of or on behalf of each party appear on one or more of the counterparts. All counterparts shall collectively constitute a single Agreement. It shall not be necessary in any proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of or on behalf of all the parties hereto.

[SIGNATURES CONTINUED]

[SIGNATURES CONTINUED]

Frederick G. Schiminger
Frederick G. Schiminger
by Frederick G. Schiminger

4-13-94
Date

Frederick G. Schiminger
Frederick G. Schiminger

4-13-94
Date

Josephine Schiminger
Josephine Schiminger

4/13/94
Date

BALTIMORE COUNTY, MARYLAND

By: Roger B. Hayden
Title: County Executive
Roger B. Hayden

4/13/94
Date

STANLEY J. SCHAPIRO

STANLEY J. SCHAPIRO
COUNTY ATTORNEY



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 3, 1994

Robert W. Cannon, Esquire
WEINBERG AND GREEN
100 South Charles Street
Baltimore, MD 21201-2773

RE: Case No. V-94-189-SPH
Tollgate Enterprises, Inc.

Dear Mr. Cannon:

Enclosed please find a copy of the Consent Order issued this date by the County Board of Appeals of Baltimore County, pursuant to Settlement Agreement between the parties in the above-referenced matter.

Very truly yours,
Charlotte S. Rulchiff
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Tollgate Shell Enterprises
Mr. Frederick G. Schiminger
Howard L. Alderman, Jr., Esquire
Mr. Charles L. Weber
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy W. Rotroo
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director/ZADM

TOLLGATE ENTERPRISES, INC. * BEFORE THE
and * COUNTY BOARD OF APPEALS
FREDERICK G. SCHIMINGER and * OF
JOSEPHINE SCHIMINGER * BALTIMORE COUNTY
Appellants * Case No.: V94-189-SPH
* * * * *

JOINT PETITION

Tollgate Enterprises, Inc., fka Tollgate Shell Enterprises, Inc., Frederick G. Schiminger and Josephine Schiminger, Appellants herein, by Robert W. Cannon and Weinberg and Green, their attorneys, and Baltimore County, Maryland, by Stanley J. Schapiro, Baltimore County Attorney, hereby respectfully petition the County Board of Appeals to adopt the Settlement Agreement and License ("Agreement") between the parties attached hereto as Exhibit A as the Order of the Board by adopting a Consent Order substantially in the form attached hereto as Exhibit B.

The parties consent to the Order being passed by the Board and each party hereby waives all rights of appeal provided said Consent Order shall be in accord with the terms of the Agreement.

Robert W. Cannon
Robert W. Cannon, Esquire
ATTORNEY FOR TOLLGATE ENTERPRISES,
INC., FREDERICK G. SCHIMINGER, and
JOSEPHINE SCHIMINGER

4/20/94
Date

[SIGNATURES CONTINUED]

91 S W 13 24 94
STV344V 40 0008 410008
03/19/94

[SIGNATURES CONTINUED]

Stanley J. Schapiro
Stanley J. Schapiro, Esquire
ATTORNEY FOR BALTIMORE COUNTY,
MARYLAND

4/21/94
Date